

# HOUSE BILL No. 1047

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 15-5-12-3.5; IC 35-46-3-6; IC 35-46-3-11.5.

**Synopsis:** Law enforcement or service animal injury liability. Makes it a Class C misdemeanor for an owner of a dog to fail to restrain the dog if the dog enters property other than the property of the dog's owner and bites or attacks a law enforcement animal or service animal resulting in injury to the law enforcement animal or service animal. Provides that the offense is a Class B misdemeanor if the person has one previous unrelated violation of this section or if the violation results in serious bodily injury to a law enforcement animal or service animal. Provides that the offense is a Class A misdemeanor if the person has more than one previous unrelated violation of this section or if the violation results in injury to a law enforcement animal or service animal to the extent that the animal is no longer capable of  
(Continued next page)

**Effective:** July 1, 1999.

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January 6, 1999, read first time and referred to Committee on Courts and Criminal Code.

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## Digest Continued

continued service as a law enforcement animal or service animal or dies or is euthanized as a result of the injury. Provides that the existing law regarding impoundment of animals applies to a dog that attacks a law enforcement animal or service animal. Provides that it is a Class A misdemeanor to knowingly or intentionally interfere with the actions of a service animal or to strike, torment, injure, or otherwise mistreat a service animal. (Current law provides that such actions constitute a Class A infraction.)

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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

## HOUSE BILL No. 1047

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1       SECTION 1. IC 15-5-12-3.5 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 1999]: **Sec. 3.5. (a) Except as provided in subsection (b), an**  
4 **owner of a dog commits a Class C misdemeanor if:**  
5       (1) **the owner recklessly, knowingly, or intentionally fails to**  
6 **take reasonable steps to restrain the dog;**  
7       (2) **the dog enters property other than the property of the**  
8 **dog's owner;**  
9       (3) **the dog bites or attacks a law enforcement animal (as**  
10 **defined by IC 35-46-3-4.5) or a service animal (as defined by**  
11 **IC 35-46-3-11.5) as a result of the owner's failure to take**  
12 **reasonable steps to restrain the dog; and**  
13       (4) **the bite or attack:**  
14           (A) **was unprovoked; and**  
15           (B) **causes bodily injury to the law enforcement animal or**



service animal.

(b) The offense under subsection (a) is:

(1) a Class B misdemeanor if:

(A) the person has been convicted of one (1) prior unrelated violation of this section; or

(B) the violation results in serious bodily injury to a law enforcement animal or service animal; and

(2) a Class A misdemeanor if:

(A) the person has been convicted of more than one (1) prior unrelated violation of this section; or

(B) the violation results in injury to a law enforcement animal or service animal to the extent that the animal:

(i) is no longer capable of continued service as a law enforcement animal or service animal; or

(ii) dies or is euthanized as a result of the injury.

SECTION 2. IC 35-46-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) This section does not apply to a violation of section 1 of this chapter.

(b) Any law enforcement officer or any other person having authority to impound animals who has probable cause to believe there has been a violation of this chapter, ~~or~~ IC 15-5-12-3, **or IC 15-5-12-3.5** may take custody of the animal involved.

(c) The animal shall be properly cared for pending disposition of charges under this chapter or IC 15-5-12.

(d) If the owner requests, the court having jurisdiction of criminal charges filed under this chapter or IC 15-5-12 shall hold a hearing to determine whether probable cause exists to believe that a violation of this chapter or IC 15-5-12 has occurred. If the court determines that probable cause does not exist, the court shall order the animal returned to its owner.

(e) This subsection applies only to livestock animals. Whenever charges are filed under this chapter, the court shall appoint the state veterinarian under IC 15-2.1-2-50 or the state veterinarian's designee to:

(1) investigate the condition of the animal and the circumstances relating to the animal's condition; and

(2) make a recommendation to the court under subsection (f) regarding the confiscation of the animal.

(f) The state veterinarian or the state veterinarian's designee who is appointed under subsection (e) shall do the following:

(1) Make a recommendation to the court concerning whether confiscation is necessary to protect the safety and well-being of



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the animal.

(2) If confiscation is recommended under subdivision (1), recommend a manner for handling the confiscation and disposition of the animal that is in the best interests of the animal.

The state veterinarian or the state veterinarian's designee who submits a recommendation under this subsection shall articulate to the court the reasons supporting the recommendation.

(g) The court:

(1) shall give substantial weight to; and

(2) may enter an order based upon;

a recommendation submitted under subsection (f).

(h) If a person is convicted of an offense under this chapter or IC 15-5-12, the court may impose the following additional penalties against the person:

(1) A requirement that the person pay the costs of caring for an animal involved in the offenses that are incurred during a period of impoundment authorized under subsection (b).

(2) An order terminating the person's right to possession, title, custody, or care of an animal that was involved in the offense.

(i) If a person's right to possession, title, custody, or care of an animal is terminated under subsection (b), the court may:

(1) award the animal to a humane society or other organization that has as its principal purpose the humane treatment of animals; or

(2) order the disposition of the animal as recommended under subsection (f).

SECTION 3. IC 35-46-3-11.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11.5. (a) As used in this section, "service animal" means an animal that a person who is impaired by:

(1) blindness or any other visual impairment;

(2) deafness or any other aural impairment;

(3) a physical disability; or

(4) a medical condition;

relies on for navigation, assistance in performing daily activities, or alert signals regarding the onset of the person's medical condition.

(b) A person who knowingly or intentionally:

(1) interferes with the actions of a service animal; or

(2) strikes, torments, injures, or otherwise mistreats a service animal;

while the service animal is engaged in assisting an impaired person described in subsection (a) commits a Class A ~~infraction~~.



1     **misdemeanor.**

2         (c) It is a defense that the accused person:

3             (1) engaged in a reasonable act of training, handling, or  
4             disciplining the service animal; or

5             (2) reasonably believed the conduct was necessary to prevent  
6             injury to the accused person or another person.

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